THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 13756 of 2006

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Oral order:

In the claim petition filed by the petitioner seeking his reinstatement into service, the 1st respondent, namely the authority under Section 48 of the A.P. Shops and Establishment Act, 1988 – Assistant Commissioner of Labour, Rajahmundry, set the 3rd respondent-employer *ex parte.* While the petitioner was taking steps for implementation of the said order, it appears that the 3rd respondent filed appeal before the 2nd respondent, namely the Deputy Commissioner of Labour, who it appears directed the 1st respondent to set aside the *ex parte* order passed against the 3rd respondent, and directed him to hear the case giving opportunity to the 3rd respondent, and based on such direction, the 1st respondent, set aside the *ex parte* order passed against the 3rd respondent and directed both the petitioner and the 3rd respondent to appear for further examination. It is this order, which the petitioner is assailing in this writ petition.

The learned counsel for the petitioner submitted that the 1st respondent having set the 3rd respondent *ex parte*, no power is vested in him to set aside the *ex parte* order and direct the parties to appear before him once again for examination, and more so after expiry of the period of limitation. He submitted that if the 3rd respondent is aggrieved by the *ex parte* order, his remedy is to file appeal, and certainly the 1st respondent on the directions of the 2nd respondent-appellate authority, cannot set aside the *ex parte* order.

Heard the learned counsel for the petitioner and the learned Government Pleader for Labour.

A reading of the impugned order would disclose that the 3rd respondent filed his counter denying the stand taken by the petitioner, and that though he attended initially, he later did not attend before the 1st respondent, and it is in those circumstances, the 1st respondent, to give opportunity to both the parties and to meet the

ends of justice, has set aside the *ex parte* order and directed both the parties to appear for examination. Since the 1st respondent has passed the impugned order to give opportunity to both the sides, and more so when the 3rd respondent had also filed his counter, I am not inclined to interfere with the impugned order passed by the 1st respondent setting aside the *ex parte* order.

However, while declining to interfere with the impugned order, I direct the 3rd respondent to comply with the mandatory provisions of Section 48 of the Shops and Establishments Act, 1988. Thereupon, the 1st respondent, namely the authority under Section 48 of A.P. Shops and Establishment Act, 1988 – Assistant Commissioner of Labour, shall hear the matter without any further delay, and dispose of the claim petition of the petitioner, and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 7th July, 2006.
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